

1936 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1936)
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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of the state of Minnesota in the same manner as other penalties are by law recovered. (Act Jan. 28, 1933, c. 7, §15.)

3260-16. Acts repealed.—Mason's Minnesota Statutes of 1927, Sections 3251 to 3260, inclusive, are hereby repealed. (Act Jan. 28, 1933, c. 7, §16.)

3260-17. Acts repealed.—Mason's Minnesota Statutes of 1927, Section 10286 so far as inconsistent with this Act is hereby repealed. (Act Jan. 28, 1933, c. 7, §17.)

3260-18. Effective May 1, 1933.—This act shall take effect and be in force from and after May 1, 1933. (Act Jan. 28, 1933, c. 7, §18.)

CHAPTER 17

Illegitimate Children—Bastards

3261. Complaint—Where filed—Warrant.

At common law the father was not charged with the support of his illegitimate child, and the bastardy statute charges the father with the support of such child and furnishes the only remedy. 175M547, 221NW911.

Husband and wife are competent to give evidence that the former is not the father of a child of the wife conceived before the dissolution of the marriage by divorce. State v. Soyka, 181M533, 233NW300. See Dun. Dig. 10312. Bastardy proceeding is civil in character rather than criminal. State v. Hanson, 187M235, 244NW809. See Dun. Dig. 827.

Bastardy proceedings are civil in nature rather than criminal. State v. Thompson, 193M364, 258NW527. See Dun. Dig. 827.

3262. Action, how entered—Proceedings.

A bastardy proceeding is a civil proceeding, not a criminal action, and defendant may be called by prosecution for cross-examination. State v. Jeffrey, 188M476, 247NW692. See Dun. Dig. 827(76).

3265. Trial—Exclusion of public, etc.

State v. Strong, 192M420, 256NW900; note under §3268. Verdict in bastardy case held not sustained by evidence. 173M294, 217NW118.

Evidence held sufficient to sustain a conviction. 173M627, 218NW110.

Where defendant was adjudged father of illegitimate child and was directed to pay certain sums for its support to a child welfare board which agreed to pay such sums to the plaintiff for boarding and caring for the child, plaintiff could sue the welfare board for sums received by it. Salvas v. R., 175M484, 221NW719.

Exclusion of evidence of intercourse with third person at indefinite prior time, held proper, and evidence of promise to marry during period of illicit relation was admissible. 179M80, 228NW335.

Evidence held to support conviction. 179M436, 229NW564.

Defendant in filiation proceeding held not entitled to dismissal for lack of speedy trial because of his own conduct contributing to delay. State v. Hanson, 187M235, 244NW809. See Dun. Dig. 842, 2469.

Mother of illegitimate is not entitled to recover from adjudged father money expended by her in care and support of child, father having been ordered by district court to make periodical payments to a county welfare board. Lawson v. M., 189M93, 248NW658.

Evidence in bastardy proceeding held to sustain verdict that defendant was father of child. State v. Rasmussen, 193M374, 258NW503. See Dun. Dig. 840.

Delay in telling of pregnancy and who is father of child is only a fact to be considered by jury in judging

the truth of the charge. State v. Thompson, 193M364, 258NW527. See Dun. Dig. 840.

In a bastardy case state need not prove its case beyond a reasonable doubt, but only by a fair preponderance of evidence. Id. See Dun. Dig. 837.

In bastardy proceeding, evidence held to sustain jury's finding of defendant's guilt. Id. See Dun. Dig. 840.

Credibility of witnesses in bastardy case is for jury. State v. Thorson, 193M382, 259NW575. See Dun. Dig. 840.

Weight to be given testimony of witnesses in bastardy proceeding is for jury. Id.

Although a bastardy proceeding has some of the features of a criminal trial, it is substantially a civil action, and, after a verdict of not guilty, court may grant a new trial. State v. Reigel, 194M308, 260NW293. See Dun. Dig. 827, 2425.

Guardian of illegitimate child may claim payments after death of father but only those that had matured at time of death. Op. Atty. Gen., Aug. 21, 1933.

County attorney cannot charge for his services in suing on bonds in bastardy proceedings. Op. Atty. Gen. (121b-11), May 31, 1935.

3266. Father to pay all expenses.

Lawson v. M., 189M93, 248NW658; note under §3265.

3267. Application for discharge from imprisonment.

State v. Strong, 192M420, 256NW900; note under §3268.

3268. Hearing—Judgment.

Conviction of bastardy, held free from error. 181M374, 232NW624. See Dun. Dig. 827.

Father of a bastard cannot be punished for contempt in not obeying an order to pay money which it is not in his power to obey. State v. Strong, 192M420, 256NW900. See Dun. Dig. 850, 1703.

3270. Procedure—Warrant.

Indication by court that instructions given were requested by one of the parties, held error. 181M374, 232NW624. See Dun. Dig. 9776(13).

3272.

Lawson v. M., 248NW658; note under §3265.

(e). Records private.

Confidential information given to child welfare board should be classed as privileged and its disclosure would be contrary to public interest. Op. Atty. Gen., Dec. 29, 1933.

Justice of peace records are open to inspection of public except illegitimacy proceedings. Op. Atty. Gen. (851), July 1, 1935.

CHAPTER 18

Public Examiner

3274. Department established—Powers and duties.

Comptroller has no authority to comply with request to make audit of tally sheets of election. Op. Atty. Gen., May 19, 1932.

Counties, cities, villages, towns, or school districts, except municipalities expressly or impliedly authorized by their charters, may not validly incur expense for examination of accounts and affairs by anyone other than the state comptroller. Op. Atty. Gen., Mar. 31, 1933.

3277. Reports of examinations—Violations of law.

Petition for audit of affairs of city is not part of audit made by state examiner, and is not public record as defined in this section, but public examiner is not prohibited from divulging matter contained in such petition. Op. Atty. Gen., May 28, 1932.

3278. Fees for examination of counties.—All the powers and duties conferred and imposed upon the public examiner in the foregoing sections shall be exercised and performed by him in respect to the offices, institutions, public property and improvements of the several counties of the state of Minnesota. At

least once in each year, the public examiner shall visit, without previous notice, each of such counties and make a thorough examination of all accounts and records relating to the receipt and disbursement of the public funds and the custody of the public funds and other property. He shall prescribe and install systems of accounts and financial reports, that shall be uniform so far as practicable for the same class of offices. A copy of the report of such examination shall be filed and subject to public inspection in the office of the public examiner, and another copy in the office of the county auditor of the county thus examined; provided, that if any such examination shall disclose malfeasance, misfeasance, or nonfeasance in the office of such county, such report shall be filed with the county attorney of said county, and it shall be the duty of such county attorney to institute such civil and criminal proceedings, as the law and the protection of the public interests shall require.